

AMENDED IN ASSEMBLY AUGUST 13, 2008

AMENDED IN ASSEMBLY SEPTEMBER 5, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE APRIL 11, 2007

SENATE BILL

No. 992

Introduced by Senator Wiggins

(Coauthors: Assembly Members Karnette and Strickland)

February 23, 2007

An act to amend Sections 11834.01, 11834.02, 11834.09, 11834.10, 11834.17, 11834.18, 11834.20, 11834.21, 11834.22, 11834.23, 11834.24, 11834.25, 11834.26, 11834.30, 11834.31, 11834.32, 11834.36, and 11834.50 of, to add Section 11834.11 to, and to repeal and add Section 11834.16 of, the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 992, as amended, Wiggins. Substance abuse: adult recovery maintenance facilities.

Existing law provides for the licensure, certification, and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults, administered by the State Department of Alcohol and Drug Programs. Existing law requires the department to grant certification to any alcoholism or drug abuse recovery or treatment program requesting the certification.

This bill would require the department to also administer the licensure and regulation of adult recovery maintenance facilities, as defined, and would require the department to adopt emergency regulations, applicable only to adult recovery maintenance facilities, to implement the fee

process for initial licensure, ~~among other things, and other~~ and the provisions for the extension of licensure, *followup compliance visits, and civil penalties*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11834.01 of the Health and Safety Code
2 is amended to read:

3 11834.01. (a) The department has the sole authority in state
4 government to license adult alcoholism or drug abuse recovery or
5 treatment facilities and adult recovery maintenance facilities. ~~The~~
6 ~~licensure and regulation of the operations of these facilities is a~~
7 ~~matter of statewide concern and shall be administered in a uniform~~
8 ~~manner throughout the state. Accordingly, jurisdiction over this~~
9 ~~licensure and regulation shall be exclusively reserved to the~~
10 ~~department. It is the intent of the Legislature for department~~
11 ~~regulations to fully occupy the field of licensure and the regulation~~
12 ~~of residential treatment facilities and adult recovery maintenance~~
13 ~~facilities and to define an integral facility.~~

14 (b) In administering this chapter, the department shall issue new
15 licenses for a period of two years to those programs that meet the
16 criteria for licensure set forth in Section 11834.03.

17 (c) Onsite program visits for compliance shall be conducted at
18 least once during each licensure period. However, the department
19 may waive an onsite program visit for compliance no more than
20 once every other licensure period if the provider has demonstrated
21 satisfactory compliance as determined by regulation.

22 (d) The department may conduct announced or unannounced
23 site visits to facilities licensed pursuant to this chapter for the
24 purpose of reviewing for compliance with all applicable statutes
25 and regulations.

26 (e) Except where otherwise directly stated or necessarily
27 implied, all provisions of this chapter shall apply to adult
28 alcoholism or drug abuse recovery or treatment facilities and to
29 adult recovery maintenance facilities.

30 (f) On or before July 1, ~~2009~~ 2010, the department, in
31 consultation with providers of alcohol and other drug recovery,
32 treatment, detoxification, and adult recovery maintenance services,

1 county alcohol and drug program administrators, local government
2 jurisdictions, funding and referral organizations and agencies, and
3 appropriate state agencies, shall develop and adopt emergency
4 regulations governing the licensing and operation of adult recovery
5 maintenance facilities, including regulations governing services
6 related to special needs as these needs are identified by the
7 department.

8 (g) On or before July 1, ~~2009~~ 2010, the department shall also
9 adopt emergency regulations, applicable only to adult recovery
10 maintenance facilities, to implement the fee process for initial
11 licensure, and the provisions for the extension of licensure,
12 followup compliance ~~visit~~ visits, and civil penalties.

13 SEC. 2. Section 11834.02 of the Health and Safety Code is
14 amended to read:

15 11834.02. (a) As used in this chapter, the following terms have
16 the following meanings:

17 (1) “Alcoholism or drug abuse recovery or treatment facility”
18 means any premises, place, or building that provides 24-hour
19 residential nonmedical services to adults who are recovering from
20 problems related to alcohol, drug, or alcohol and drug misuse or
21 abuse, and who receive alcohol, drug, or alcohol and drug recovery
22 treatment or detoxification services.

23 (2) “Adult recovery maintenance facility” means any facility,
24 place, or building that provides alcohol- or drug-free housing whose
25 rules, peer-led groups, staff activities, or other structured operations
26 are directed primarily toward maintenance of sobriety for adults
27 in early recovery from substance abuse or adults who recently have
28 completed alcoholism or drug abuse recovery or treatment services.
29 This facility is designed to promote independent living in a
30 supervised setting, but does not provide professional recovery and
31 treatment services onsite. The facility may require that adults
32 receive offsite alcoholism or other drug treatment services. The
33 facility is otherwise authorized to receive public funds for
34 individual residents. An adult recovery maintenance facility does
35 not include an unstructured living arrangement that requires
36 residents to abstain from using alcohol or drugs.

37 (3) “Adults” may include, but are not limited to, the following:

38 (A) Persons 18 years of age or older and their minor children.

39 (B) Emancipated minors, which may include, but is not limited
40 to, persons under 18 years of age and their minor children.

(4) “Emancipated minors” means persons under 18 years of age who have acquired emancipation status pursuant to Section 7002 of the Family Code.

(b) Notwithstanding paragraph (1) of subdivision (a), an alcoholism or drug abuse recovery or treatment facility may serve adolescents upon the issuance of a waiver granted by the department pursuant to regulations adopted under subdivision (c) of Section 11834.50.

SEC. 3. Section 11834.09 of the Health and Safety Code is amended to read:

11834.09. (a) Upon receipt of a completed written application for initial licensure or extension of licensure, fire clearance, and applicable fee from the applicant, and subject to the department’s review and determination that the applicant can comply with this chapter and regulations adopted pursuant to this chapter, the department may issue any of the following:

(1) A single license to the following types of alcoholism or drug abuse recovery or treatment facilities:

(A) A residential facility.

(B) A facility wherein separate buildings or portions of a residential facility are integral components of a single alcoholism or drug abuse recovery or treatment facility and all of the components of the facility are managed by the same provider.

(2) A single license to an adult recovery maintenance facility.

(b) The department shall commence the licensure of adult recovery maintenance facilities only after developing and adopting regulations for purposes of Section 11834.01. However, the licensing activity shall not commence later than January 1, ~~2010~~ 2011.

(c) Failure to submit a completed written application for initial licensure or extension of licensure, fire clearance, and payment of the required licensing or certification fee in a timely manner shall result in termination of the department’s licensure or certification review and shall require submission of a new application by the applicant.

(d) Failure of the applicant to demonstrate the ability to comply with this chapter or the regulations adopted pursuant to this chapter shall result in departmental denial of the applicant’s application for licensure.

1 SEC. 4. Section 11834.10 of the Health and Safety Code is
2 amended to read:

3 11834.10. A licensee shall not operate an alcoholism or drug
4 abuse recovery or treatment facility or an adult recovery
5 maintenance facility beyond the conditions and limitations
6 specified on the license.

7 SEC. 5. Section 11834.11 is added to the Health and Safety
8 Code, to read:

9 11834.11. On and after January 1, ~~2010~~ 2011, no state or local
10 social services, law enforcement, corrections agency, court,
11 probation officer, or parole officer shall refer any person to an
12 alcoholism or drug abuse recovery or treatment facility or an adult
13 recovery maintenance facility that is not licensed.

14 SEC. 6. Section 11834.16 of the Health and Safety Code is
15 repealed.

16 SEC. 7. Section 11834.16 is added to the Health and Safety
17 Code, to read:

18 11834.16. In order to obtain *an extension of* a license, the
19 provider shall submit to the department a complete written
20 application for extension and appropriate licensure fee for each
21 subsequent two-year period 30 days prior to the expiration date
22 shown on the license. Failure to submit the required written
23 application and extension fee prior to the expiration date shown
24 on the license shall result in automatic termination of the license
25 by the operation of law.

26 SEC. 8. Section 11834.17 of the Health and Safety Code is
27 amended to read:

28 11834.17. No city, county, city and county, or district shall
29 adopt or enforce any building ordinance or local rule or regulation
30 relating to the subject of fire and life safety in alcoholism and drug
31 abuse recovery or treatment facilities or adult recovery maintenance
32 facilities that is more restrictive than those standards adopted by
33 the State Fire Marshal.

34 SEC. 9. Section 11834.18 of the Health and Safety Code is
35 amended to read:

36 11834.18. (a) Nothing in this chapter shall authorize the
37 imposition of rent regulations or controls for licensed alcoholism
38 or drug abuse recovery or treatment facilities or adult recovery
39 maintenance facilities.

1 (b) Licensed alcoholism and drug abuse recovery or treatment
2 facilities and adult recovery maintenance facilities shall not be
3 subject to controls on rent imposed by any state or local agency
4 or other local government or entity.

5 SEC. 10. Section 11834.20 of the Health and Safety Code is
6 amended to read:

7 11834.20. The Legislature hereby declares that it is the policy
8 of this state that each county and city shall permit and encourage
9 the development of sufficient numbers and types of alcoholism or
10 drug abuse recovery or treatment facilities and adult recovery
11 maintenance facilities as are commensurate with local need.

12 The provisions of this article apply equally to any chartered city,
13 general law city, county, city and county, district, and any other
14 local public entity.

15 For the purposes of this article, “six or fewer persons” does not
16 include the licensee, members of the licensee’s family, persons
17 employed as facility staff, or minor dependents of the resident.

18 SEC. 11. Section 11834.21 of the Health and Safety Code is
19 amended to read:

20 11834.21. Any person licensed under this chapter who operates
21 or proposes to operate an alcoholism or drug abuse recovery or
22 treatment facility or an adult recovery maintenance facility, the
23 department or other public agency authorized to license such a
24 facility, or any public or private agency that uses or may use the
25 services of the facility to place its clients, may invoke the
26 provisions of this article.

27 This section shall not be construed to prohibit any interested
28 party from bringing suit to invoke the provisions of this article.

29 SEC. 12. Section 11834.22 of the Health and Safety Code is
30 amended to read:

31 11834.22. An alcoholism or drug abuse recovery or treatment
32 facility or an adult recovery maintenance facility that serves six
33 or fewer persons shall not be subject to any business taxes, local
34 registration fees, use permit fees, or other fees to which other
35 single-family dwellings are not likewise subject. Nothing in this
36 section shall be construed to forbid the imposition of local property
37 taxes, fees for water service and garbage collection, fees for
38 inspections not prohibited by Section 11834.23, local bond
39 assessments, and other fees, charges, and assessments to which
40 other single-family dwellings are likewise subject. Neither the

1 State Fire Marshal nor any local public entity shall charge any fee
2 for enforcing fire inspection regulations pursuant to state law or
3 regulation or local ordinance, with respect to alcoholism or drug
4 abuse recovery or treatment facilities or adult recovery maintenance
5 facilities that serve six or fewer persons.

6 SEC. 13. Section 11834.23 of the Health and Safety Code is
7 amended to read:

8 11834.23. Whether or not unrelated persons are living together,
9 an alcoholism or drug abuse recovery or treatment facility or an
10 adult recovery maintenance facility that serves six or fewer persons
11 shall be considered a residential use of property for the purposes
12 of this article. In addition, the residents and operators of the facility
13 shall be considered a family for the purposes of any law or zoning
14 ordinance that relates to the residential use of property pursuant
15 to this article.

16 For the purpose of all local ordinances, an alcoholism or drug
17 abuse recovery or treatment facility or an adult recovery
18 maintenance facility that serves six or fewer persons shall not be
19 included within the definition of a boarding house, rooming house,
20 institution or home for the care of minors, the aged, or the mentally
21 infirm, foster care home, guest home, rest home, sanitarium, mental
22 hygiene home, or other similar term that implies that the alcoholism
23 or drug abuse recovery or treatment home or the adult recovery
24 maintenance facility is a business run for profit or differs in any
25 other way from a single-family residence.

26 This section shall not be construed to forbid any city, county, or
27 other local public entity from placing restrictions on building
28 heights, setback, lot dimensions, or placement of signs of an
29 alcoholism or drug abuse recovery or treatment facility or an adult
30 recovery maintenance facility that serves six or fewer persons as
31 long as the restrictions are identical to those applied to other
32 single-family residences.

33 This section shall not be construed to forbid the application to
34 an alcoholism or drug abuse recovery or treatment facility or an
35 adult recovery maintenance facility of any local ordinance that
36 deals with health and safety, building standards, environmental
37 impact standards, or any other matter within the jurisdiction of a
38 local public entity. However, the ordinance shall not distinguish
39 alcoholism or drug abuse recovery or treatment facilities or adult
40 recovery maintenance facilities that serve six or fewer persons

1 from other single-family dwellings or distinguish residents of
2 alcoholism or drug abuse recovery or treatment facilities or adult
3 recovery maintenance facilities from persons who reside in other
4 single-family dwellings.

5 No conditional use permit, zoning variance, or other zoning
6 clearance shall be required of an alcoholism or drug abuse recovery
7 or treatment facility or an adult recovery maintenance facility that
8 serves six or fewer persons that is not required of a single-family
9 residence in the same zone.

10 Use of a single-family dwelling for purposes of an alcoholism
11 or drug abuse recovery or treatment facility or an adult recovery
12 maintenance facility serving six or fewer persons shall not
13 constitute a change of occupancy for purposes of Part 1.5
14 (commencing with Section 17910) of Division 13 or local building
15 codes. However, nothing in this section is intended to supersede
16 Section 13143 or 13143.6, to the extent those sections are
17 applicable to alcoholism or drug abuse recovery or treatment
18 facilities or adult recovery maintenance facilities serving six or
19 fewer residents.

20 SEC. 14. Section 11834.24 of the Health and Safety Code is
21 amended to read:

22 11834.24. No fire inspection clearance or other permit, license,
23 clearance, or similar authorization shall be denied to an alcoholism
24 or drug abuse recovery or treatment facility or an adult recovery
25 maintenance facility because of a failure to comply with local
26 ordinances from which the facility is exempt under Section
27 11834.23, if the applicant otherwise qualifies for a fire clearance,
28 license, permit, or similar authorization.

29 SEC. 15. Section 11834.25 of the Health and Safety Code is
30 amended to read:

31 11834.25. (a) For the purposes of any contract, deed, or
32 covenant for the transfer of real property executed on or after
33 January 1, 1979, an alcoholism or drug abuse recovery or treatment
34 facility that serves six or fewer persons shall be considered a
35 residential use of property and a use of property by a single family,
36 notwithstanding any disclaimers to the contrary.

37 (b) For the purposes of any contract, deed, or covenant for the
38 transfer of real property executed on or after the date that licensure
39 commences for adult recovery maintenance facilities, an adult
40 recovery maintenance facility that serves six or fewer persons shall

1 be considered a residential use of property and a use of property
2 by a single family, notwithstanding any disclaimers to the contrary.

3 SEC. 16. Section 11834.26 of the Health and Safety Code is
4 amended to read:

5 11834.26. (a) An alcoholism or drug abuse recovery or
6 treatment facility shall provide at least one of the following
7 nonmedical services:

8 (1) Recovery services.

9 (2) Treatment services.

10 (3) Detoxification services.

11 (b) The department shall adopt regulations requiring records
12 and procedures that are appropriate for each of the services
13 specified in subdivision (a). The records and procedures may
14 include all of the following:

15 (1) Admission criteria.

16 (2) Intake process.

17 (3) Assessments.

18 (4) Recovery, treatment, or detoxification planning.

19 (5) Referral.

20 (6) Documentation of provision of recovery, treatment or
21 detoxification services.

22 (7) Discharge and continuing care planning.

23 (8) Indicators of recovery, treatment, or detoxification outcomes.

24 (c) In the development of regulations implementing this section,
25 the written record requirements shall be modified or adapted for
26 social model programs.

27 (d) An adult recovery maintenance facility shall maintain
28 documentation on services provided to, and progress made by,
29 clients who are referred to the adult recovery maintenance facility
30 by a public agency. An adult recovery maintenance facility shall
31 also provide at least one of the following recovery maintenance
32 services:

33 (1) Aftercare.

34 (2) Referral to community resources.

35 (3) Referral to offsite certified alcoholism or other drug recovery
36 or treatment services when required.

37 (4) Participation in self-help groups on or off premises.

38 (e) The adult recovery maintenance facility may require or
39 provide drug and alcohol testing and self-help groups on or off the
40 premises.

1 (f) The adult recovery maintenance facility shall maintain
2 records in order to document the services provided.

3 SEC. 17. Section 11834.30 of the Health and Safety Code is
4 amended to read:

5 11834.30. (a) No person, firm, partnership, association,
6 corporation, or local governmental entity shall operate, establish,
7 manage, conduct, or maintain an alcoholism or drug abuse recovery
8 or treatment facility or an adult recovery maintenance facility to
9 provide recovery, treatment, detoxification, or recovery
10 maintenance services within this state without first obtaining a
11 current valid license issued pursuant to this chapter.

12 (b) No person, firm, partnership, association, corporation, or
13 local governmental entity shall operate, establish, manage, conduct,
14 or maintain an adult recovery maintenance facility to provide
15 recovery maintenance services within this state without first
16 obtaining a current valid license issued pursuant to this chapter.

17 (c) Any facility that is operated primarily for the purpose of
18 providing alcoholism or drug abuse recovery or treatment services
19 or requires clients to obtain these services and requires supervision
20 shall be licensed.

21 (d) Any provider of both an alcoholism and drug abuse recovery
22 or treatment services facility and an adult recovery maintenance
23 facility shall hold a separate license for each facility.

24 SEC. 18. Section 11834.31 of the Health and Safety Code is
25 amended to read:

26 11834.31. If a facility is alleged to be in violation of Section
27 11834.30, the department shall conduct a site visit to investigate
28 the allegation. If the department's employee or agent finds evidence
29 that the facility is providing alcoholism or drug abuse recovery,
30 treatment, detoxification, or recovery maintenance services without
31 a license, the employee or agent shall take the following actions:

32 (a) Submit the findings of the investigation to the department.

33 (b) Upon departmental authorization, issue a written notice to
34 the facility stating that the facility is operating in violation of
35 Section 11834.30. The notice shall include all of the following:

36 (1) The date by which the facility shall cease providing services.

37 (2) Notice that the department will assess against the facility a
38 civil penalty of two hundred dollars (\$200) per day for every day
39 the facility continues to provide services beyond the date specified
40 in the notice.

1 (3) Notice that the case will be referred for civil proceedings
2 pursuant to Section 11834.32 in the event the facility continues to
3 provide services beyond the date specified in the notice.

4 (c) Inform the facility of the licensing requirements of this
5 chapter.

6 SEC. 19. Section 11834.32 of the Health and Safety Code is
7 amended to read:

8 11834.32. (a) The director may bring an action to enjoin the
9 violation of Section 11834.30 in the superior court in and for the
10 county in which the violation occurred. Any proceeding under this
11 section shall conform to the requirements of Chapter 3
12 (commencing with Section 525) of Title 7 of Part 2 of the Code
13 of Civil Procedure, except that the director shall not be required
14 to allege facts necessary to show or tending to show lack of
15 adequate remedy at law or irreparable damage or loss.

16 (b) With respect to any and all actions brought pursuant to this
17 section alleging actual violation of Section 11834.30, the court
18 shall, if it finds the allegations to be true, issue its order enjoining
19 the alcoholism or drug abuse recovery or treatment facility or the
20 adult recovery maintenance facility from continuance of the
21 violation.

22 SEC. 20. Section 11834.36 of the Health and Safety Code is
23 amended to read:

24 11834.36. (a) The director may suspend or revoke any license
25 issued under this chapter, or deny an application for licensure, for
26 extension of the licensing period, or to modify the terms and
27 conditions of a license, upon any of the following grounds and in
28 the manner provided in this chapter:

29 (1) Violation by the licensee of any provision of this chapter or
30 regulations adopted pursuant to this chapter.

31 (2) Repeated violation by the licensee of any of the provisions
32 of this chapter or regulations adopted pursuant to this chapter.

33 (3) Aiding, abetting, or permitting the violation of, or any
34 repeated violation of, any of the provisions described in paragraph
35 (1) or (2).

36 (4) Conduct in the operation of an alcoholism or drug abuse
37 recovery or treatment facility or an adult recovery maintenance
38 facility that is inimical to the health, morals, welfare, or safety of
39 either an individual in, or receiving services from, the facility or
40 to the people of the State of California.

1 (5) Misrepresentation of any material fact in obtaining the
2 alcoholism or drug abuse recovery or treatment facility license or
3 the adult recovery maintenance facility license.

4 (6) Failure to pay any civil penalties assessed by the department.

5 (b) The director may temporarily suspend any license prior to
6 any hearing when, in the opinion of the director, the action is
7 necessary to protect residents of the alcoholism or drug abuse
8 recovery or treatment facility or the adult recovery maintenance
9 facility from physical or mental abuse, abandonment, or any other
10 substantial threat to health or safety. The director shall notify the
11 licensee of the temporary suspension and the effective date of the
12 temporary suspension and at the same time shall serve the provider
13 with an accusation. Upon receipt of a notice of defense to the
14 accusation from the licensee, the director shall, within 15 days,
15 set the matter for hearing, and the hearing shall be held as soon as
16 possible. The temporary suspension shall remain in effect until the
17 time the hearing is completed and the director has made a final
18 determination on the merits. However, the temporary suspension
19 shall be deemed vacated if the director fails to make a final
20 determination on the merits within 30 days after the department
21 receives the proposed decision from the Office of Administrative
22 Hearings.

23 SEC. 21. Section 11834.50 of the Health and Safety Code is
24 amended to read:

25 11834.50. The department shall adopt regulations to implement
26 this chapter in accordance with the purposes required by Section
27 11835. These regulations shall be adopted only after consultation
28 with appropriate groups affected by the proposed regulations. The
29 regulations shall include, but not be limited to, all of the following:

30 (a) Provision for a formal appeal process for the denial,
31 suspension, or revocation of a license.

32 (b) Establishment of requirements for compliance, procedures
33 for issuance of deficiency notices and civil penalties for
34 noncompliance.

35 (c) Provision for the issuance of a waiver for an alcoholism or
36 drug abuse recovery or treatment facility to serve not more than
37 three adolescents, or 10 percent of the total licensed capacity,
38 whichever is less, age 14 years and older, when a need exists and
39 services specific to adolescents are otherwise unavailable. The
40 regulations shall specify the procedures and criteria for granting

1 the waiver. The procedures shall include, but not be limited to,
2 criminal record reviews and fingerprinting.

3 (d) Establishment of the elements and minimum requirements
4 for recovery, treatment, detoxification, and recovery maintenance
5 services.

6 (e) Provision for an expedited process for reviewing an
7 application for licensure when a license is terminated pursuant to
8 subdivision (c) of Section 11834.40.

O